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FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/07

SPONSOR Anderson LAST UPDATED _____ HB 288

SHORT TITLE Allow Judges To Carry Firearms In Court SB _____

ANALYST C. Sanchez

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
 Bernalillo Metropolitan Court (BMC)
 Department of Public Safety (DPS)

SUMMARY

Synopsis of Bill

House Bill 288 amends NMSA 1978 30-7-2 by explicitly authorizing validly licensed judges to carry concealed firearms in a courthouse. The bill further provides a statutory exception to NMSA 1978 Section 29-19-11, which currently invalidates any and all concealed handgun licenses within a courthouse or courthouse facility, unless authorized by the presiding judicial officer of that courthouse or court facility.

FISCAL IMPLICATIONS

Under the current statutory scheme a judge who is validly licensed to carry firearms is not absolutely barred from carrying a concealed firearm in a courthouse, but rather must first be authorized to do so by the presiding or chief judge of that court. The LFC believes that the above statutes, as currently enacted, are wholly consistent with Article 6, Section 38 of the New Mexico Constitution and NMRA 23-109, which place the administrative responsibility for each judicial district and metropolitan court district with the chief judge of that district. The amendments set forth under House Bill 288 are thus both unnecessary and unwarranted.

SIGNIFICANT ISSUES

HB 288 amends NMSA 1978, Section 29-19-11, the statute that renders invalid in a courthouse or court facility a concealed handgun license. HB 288 proposes to allow judges with a concealed handgun license to carry concealed firearms as an exception to Section 29-19-11. In addition to some language clarifications, HB 288 would add a provision to NMSC 1978, Section 30-7-2, to allow a judge with a concealed carry firearms license to carry a concealed firearm in “the courthouse.” HB 288 does not limit this provision to the judge’s courthouse, but provides a blanket exception for all judges and courthouses.

HB 288 may threaten to violate the separation of powers doctrine. Under current court policy, a licensed judge may carry a concealed weapon in the court where that judge presides if the chief judge of the district approves. HB 288 would codify that policy while excluding the requirement of chief judge approval and any change in court policy would potentially conflict with the proposal in HB 288.

Other states have enacted legislation similar to the provisions in HB 288.

ADMINISTRATIVE IMPLICATIONS

The Bernalillo Metropolitan Courthouse House believes Bill 288, as proposed, would diminish the administrative responsibilities of the chief judge, who is best situated to determine the advisability of permitting concealed firearms in his or her courthouse. Furthermore, House Bill 288 would have the potential effect of increasing by nineteen the number of firearms in the Bernalillo County Metropolitan Courthouse, none of which would be required to be disclosed to either court security or the chief judge. Accordingly, the bill, if enacted, will conceivably aggravate, rather than alleviate, security concerns in courts.

CONFLICT

The proposed legislation conflicts with Article 6, Section 38 of the New Mexico Constitution and NMRA 23-109, which places the administrative responsibility of each judicial district and metropolitan court district with the chief judge of that district. It is this Constitutional provision that authorizes the chief judge to make determinations such as whether or not to allow judges or other individuals to carry concealed handguns in the courthouse.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The present policy of permitting, with the consent of the chief judge, a judge with a license to carry a concealed firearm will remain in place.

POSSIBLE QUESTIONS

Does this bill threaten to violate the separation of powers doctrine?

CS/sb